

## ARTICLE 3

### PAWNBROKERS, SECONDHAND DEALERS AND AUCTIONEERS

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## ARTICLE 3

### PAWNBROKERS, SECONDHAND DEALERS AND AUCTIONEERS

SEC. 6-3.00 DEFINITIONS. For the purposes of this Article, certain words and phrases are defined, and certain provisions shall be construed as herein set out, unless it shall be apparent from their context that a different meaning is intended.

SEC. 6-3.01 PAWNBROKER. DEFINED. "Pawnbroker" shall include any person, firm or corporation who keeps a loan or pawn office, or engages in or carries on the business of receiving jewelry, precious stones, valuables, firearms, clothing or personal property, or any other article or articles, in pledge for or as security or in pawn for its repayment of monies, and exacts an interest for such loans. The term "Pawnbroker" shall not include banks, trust companies or bond brokers, who may otherwise be regulated by law and authorized to deal in commercial papers, shares of stock, bonds and other certificates of value.

SEC. 6-3.02 SECONDHAND DEALER. DEFINED. "Secondhand Dealer" shall include any person who engages in or conducts the business of buying, selling or exchanging, whether as a separate business or in connection with other businesses, any secondhand or used articles or things, including, but not limited to, typewriters, adding or calculating machines, scales, clothing, tools, surgical, dental or drawing instruments, furniture, household furnishings, motorcycles or automobile accessories, bicycles, bicycle accessories, firearms, and musical instruments. The term "Secondhand Dealer" shall not include Secondhand Jewelry Dealers, Secondhand Automobile Dealers, Junk Collectors and Junk Dealers, and Automobile Wrecking Establishments.

SEC. 6-3.03 SECONDHAND JEWELRY DEALER. DEFINED. "Secondhand Jewelry Dealer" shall include any person who engages in or conducts the business of buying, selling or exchanging secondhand jewelry, old gold, old silver, platinum or articles of platinum, silverware, or other precious metals or stones.

SEC. 6-3.04 AUTOMOBILE WRECKING ESTABLISHMENT. DEFINED. "Automobile Wrecking Establishment" shall include any establishment, building or other place where the business is carried on of wrecking old or used automobiles or other motor vehicles, and adding or employing the accessories and parts thereof in equipping, repairing, or rebuilding motor vehicles or storing, selling, or otherwise disposing of, such accessories or parts.

SEC. 6-3.05 AUCTIONEER. DEFINED. "Auctioneer" shall include any person who shall, at public outcry, offer for sale, as principal or agent, to the highest bidder on the spot, any article of merchandise or property. The term "Auctioneer" shall also include any person who sells or offers for sale, any article of merchandise or property, including platinum, gold, silver, plated ware, precious stones or semi-precious stones, watches or other jewelry by public outcry to the highest bidder, or at a stated price and thereafter at successively or gradually lower prices until an acceptor or purchaser is found, or at a stated price and the addition of other merchandise until an acceptor or purchaser is found, or by what is commonly known as "Action Sale", or "Dutch Sale", or "Down-Hill Selling", or any other method of a like or similar nature.

SEC. 6-3.06 JUNK COLLECTOR. DEFINED. "Junk Collector" shall include any person who goes from place to place for the purpose of engaging in or carrying on the business of

collecting, buying or selling, either at wholesale or retail, any old rags, bottles, sacks, cans, papers, metals, or any other worn out or discarded material.

SEC. 6-3.07 JUNK DEALER. DEFINED. "Junk Dealer" shall include any person having a fixed place of business and who is engaged in carrying on the business of buying or selling, either at wholesale or retail, any old rags, bottles, sacks, cans, papers, metals, or any other worn out or discarded material.

SEC. 6-3.20 PERMIT REQUIRED. It shall be unlawful for any person to engage in, or carry on, or conduct, or to permit to be carried on, engaged in or conducted, within the City of Hayward the business of any Pawnbroker, Secondhand Dealer, Secondhand Jewelry Dealer, Automobile Wrecking Establishment, Auctioneer, Junk Collector, or Junk Dealer, whether as a separate business or in connection with any other business unless there exists a valid permit therefor as provided in Article 1 of this Chapter.

At the time of filing such application, the applicant and any persons directly or indirectly interested in the permit including all members of any firm or partnership, may be fingerprinted by the Police Department and if any such person is found to have a prior criminal record of committing any felony, theft, obtaining money or property by false pretenses, embezzlement or violating any of the provisions of this Article, or any other law regarding such business, the application for such permit may be denied.

SEC. 6-3.22 PAWNBROKERS, SECONDHAND DEALERS, SECONDHAND JEWELRY DEALERS. RECORD OF TRANSACTIONS. Every person managing, maintaining or -conducting the business of Pawnbroker, Secondhand Dealer, or Secondhand Jewelry Dealer in the City of Hayward shall keep, or cause to be kept at the store or place of business, a well bound book containing a record in which shall be legibly entered in the English language, in ink, at the time of every purchase, sale, exchange, pledge, pawn or other transfer of possession of any article, or loan thereof, a description of such article received or delivered in such transaction, sufficient to identify the same including serial number and all particular and prominent marks of identification that may be found on such property, the signature, address, age, sex and description of the person receiving, delivering or transferring the property or who is otherwise dealt with, the amount of money paid or received in such transaction and the rate of interest, if any, and the date and hour of transaction.

SEC. 6-3.23 PAWNBROKERS, SECONDHAND DEALERS, SECONDHAND JEWELRY DEALERS. INSPECTIONS AND REPORTS. The record of transactions required by the provisions contained within Section 6-3.22 of this Article shall be open for inspection by the Police Department at any time during business hours, and the Police Department shall also have the right to thoroughly inspect the premises, store or place where the business is being conducted at any time in search of any lost or stolen property, or to compare the entry kept in such records with the article or articles located on such premises or place of business. All persons in charge of such businesses shall render to the Police Department such assistance as may reasonably be necessary to enable it in such inspection or search. The person in charge of such business shall each day, excepting Sundays and holidays, furnish or cause to be furnished to the Chief of Police, a legible and complete copy of such record, the same to be permanently filed in the offices of the Police Department and the same shall be open for inspection only to the Police Department of the City of Hayward or upon order of the court duly made for that purpose. The said reports shall be made upon forms approved by the Chief of Police.

SEC. 6-3.24 PAWNBROKERS, SECONDHAND DEALERS, SECONDHAND JEWELRY DEALERS. MERCHANDISE TO BE HELD. All articles purchased, received, exchanged, pledged, pawned or otherwise taken into possession, by any person maintaining or

operating the business of Pawnbroker, Secondhand Dealer, or Secondhand Jewelry Dealer, or the agent thereof, the retention of which is not otherwise provided for by law, shall, except as hereinafter provided or otherwise provided, be held for a period of thirty (30) days before being placed on exhibition, sold, exchanged, removed from the place of business where it was received, delivered to any person, or otherwise disposed of, provided, however, that any such article may be delivered or returned, at any time, to the true owner thereof or his authorized agent, provided, further, any furniture, household furnishings, files, desks, chairs or other office equipment need not be held for more than five (5) days, and provided further that the following named articles, to-wit: watches, firearms, cameras, projectors, table model and portable radios, electric drills, sanders, buffers, check protectors, surveyors' instruments, microscopes, binoculars, field glasses, electric motors, lenses and musical instruments other than pianos, shall be held for a period of at least sixty (60) days.

SEC. 6-3.25 PAWNBROKERS, SECONDHAND DEALERS, SECONDHAND JEWELRY DEALERS. PURCHASES FROM MINORS OR SERVANTS. It shall be unlawful for any person maintaining or conducting the business of Pawnbroker, Secondhand Dealer, or Secondhand Jewelry Dealer or any agent or employee thereof (1) to purchase or take any goods or articles or thing offered to him by any minor, or (2) to knowingly purchase or take any such things from any servant or apprentice without first ascertaining that such article or thing is the property of the person delivering the same or that such servant or apprentice has the authority from the owner to deliver or sell such property.

SEC. 6-3.26 PAWNBROKERS, SECONDHAND DEALERS, SECONDHAND JEWELRY DEALERS. HOURS OF BUSINESS. It shall be unlawful for any person conducting or maintaining the business of Pawnbroker, Secondhand Dealer, or Secondhand Jewelry Dealer or any agent or employee thereof, to keep, or to cause to be kept, such place of business open on certain holidays, to-wit; New Year's Day (January 1), Memorial Day (Last Monday in May), if New Year's Day, Independence Day, or Christmas Day falls upon a Sunday, on the Monday following, which shall then constitute such holiday, or on any other day except during the regular business hours observed by retail merchants in the City of Hayward, herein defined to be the hours from 9:00 o'clock a.m. to 6.00 o'clock p.m.; provided, however, that on a Friday, Saturday, or day preceding any of the aforesaid holidays such business may be kept open until 10:00 o'clock P.M. Any person engaged in conducting any business other than those hereinabove mentioned on the same premises in such business, or in conjunction with the same, shall notwithstanding close the place of such other business at the same time and same manner as herein provided.

SEC. 6-3.27 PAWNBROKERS. RECEIPT BOOKS REQUIRED. Any person managing, maintaining or conducting the business of a Pawnbroker in the City of Hayward shall keep or cause to be kept, at the store or place of business, receipt books as hereinafter described. Such books shall be kept in addition to the record of transactions required by Section 6-3.22 of this Article, and shall consist of duplicate sheets of not less than four by seven (4 x 7) inches in size and bearing consecutive numbers, one of each of said duplicate pages shall be perforated as to enable its removal. One of the aforesaid books shall be kept for the recording of, and the receipting for, sales, and there shall be printed at the top of the perforated sheet, in colored type not less than three-eighths (3/8) of an inch in height, the following words: "This is a pledge and not a sale." The perforated sheet, which shall be the duplicate, shall, after being filled out as herein provided, be delivered to the person with whom the transaction is made. The original thereof shall be kept by the Pawnbroker for a period of at least two (2) years next following the date of the transaction, and shall, during such time, be available at all times during business hours for inspection by the Police Department.

SEC. 6-3.30 AUTOMOBILE WRECKING ESTABLISHMENTS. RECORDS AND REPORTS. Any person operating, maintaining or carrying on, the business of an Automobile

Wrecking Establishment, shall keep, or cause to be kept, a record of the purchase, sale, exchange or storage of any automobile, or part thereof or accessory thereto, which record shall at all times be open to the inspection of the Police Department, and such person shall, as often as the Chief of Police shall direct, make out and deliver to him on a form furnished by the Chief of Police, a full and complete report of the purchase, sale, exchange, storage or other transaction of such property. The said report shall contain the name of the person from whom purchased, the make, state license number, motor number, body number, style and seating capacity of all secondhand automobiles purchased, sold, exchanged or placed in storage, together with such other information concerning said property as may be necessary to prove ownership or identity. It shall be unlawful for any such person engaged in any such business to dispose of any secondhand automobile or part thereof or accessory thereto until said report has been made to the Police Department and an opportunity had for inspecting the same.

**SEC. 6-3.31 AUTOMOBILE WRECKING ESTABLISHMENTS. PERMIT INVESTIGATION.** In addition to the requirements of Article 1 of this Chapter every application for a permit to operate or maintain an Automobile Wrecking Establishment shall further set forth the dimensions and character of construction of the building in which such business is proposed to be carried on, and the permit granted pursuant thereto shall be at all times subject to all regulations of the City of Hayward pertaining to permits granted for the maintenance and operation of a public garage. The Investigating Officials to whom the application shall be referred and by whom such application shall be approved shall be the Chief of Police and the Fire Chief.

**SEC. 6-3.32 AUTOMOBILE WRECKING ESTABLISHMENTS. RESTRICTIONS.** No permit shall be granted for the carrying on or conducting of an Automobile Wrecking Establishment, and it shall be unlawful for any person to carry on such business, unless the same is carried on or conducted in a building which has been erected in accordance with requirements of the City of Hayward pertaining to the construction of public garages; provided, that such construction shall not be required for enclosed buildings in which parts or accessories of motor vehicles are only stored or sold; provided, further, that the holder of an Automobile Wrecking Establishment permit may store automobiles prior to the removal there from of any parts or accessories on land in the immediate neighborhood of the building in which such Automobile Wrecking Establishment is operated and carried on, if such land is entirely surrounded by a solid tight fence or wall of not more than ten (10) feet and not less than eight (8) feet in height and painted with a fire retardant paint. Any such fence shall not have more than one (1) opening upon any public street and each opening shall not be more than twelve (12) feet in width and shall be equipped with a substantial solid tight gate or door of the same height as such fence or wall and the same shall be kept securely closed at all times when such Automobile Wrecking Establishment is not open for business.

Not more than one (1) sign of any kind whatsoever, shall be painted or erected on any one (1) side of such fence or on such land, and such sign shall not be greater in size than fifty (50) square feet; nor shall any part or accessory of any motor vehicle be displayed or exhibited on the outside of such building or fence.

**SEC. 6-3.40 SALES BY PUBLIC AUCTION.** Without limiting the generality of the term "sale by public auction", such sale shall include a sale in which the seller or auctioneer announces a price at which he will sell one or more articles of merchandise and then, if no sale occurs increasingly adds additional articles of merchandise to those originally offered with or without varying the previously announced price until a buyer is finally induced to buy the accumulated articles at the price fixed, or the seller or auctioneer announces a price at which he will sell one or more articles of merchandise and then, if no sale occurs, decreases the price of that offered until a buyer is finally induced to buy the article or articles offered for sale.

The provisions of this Article shall not apply to judicial sales, sales by executors or administrators, or any auction held for charitable or benefit purposes or any church affair, festival or bazaar.

SEC. 6-3.41 AUCTIONEER. BOND. FORFEITURES. No person shall engage in the calling of an auctioneer in the City of Hayward unless in addition to the permit required under the provisions of this Article he shall have filed with the City Clerk a bond for the faithful performance of his duties, which bond shall be in the principal amount of \$5,000.00, payable to the City of Hayward and shall be signed by two or more sureties, each of whom must be worth said sum. Said bond shall be approved by the City Manager and the City Attorney.

For every violation of any of the provisions of this Article pertaining to the calling of auctioneer, or to auctions, in addition to such penalty as may be otherwise provided for such violation, such auctioneer shall forfeit to the City of Hayward the sum of \$250.00, which amount shall be recoverable upon said bond.

SEC. 6-3.42 AUCTIONS. FALSE REPRESENTATIONS. SUBSTITUTED MERCHANDISE. FALSE BIDS. It shall be unlawful for any person to sell, or attempt to sell, by auction, or to advertise for sale by auction, any goods, wares or merchandise falsely representing or pretending the same to be in whole or in part, a bankrupt or insolvent stock, or damaged goods, or goods saved from a fire, or to make any false statement as to the previous history, ownership, quality or character of such goods, wares and merchandise, or for any person to offer for sale at auction any article and induce its purchase by any bidder and afterwards to substitute any article in lieu of that offered to and purchased by the bidder, except with the bidder's knowledge and consent.

It shall be unlawful for any person to falsely act as bidder in the capacity of what is commonly known as a "capper", "booster", or "shiller" merely for the purpose of increasing the amount of the bids at any auction sale or place for conducting public auctions, or to offer to make any false bid, or pretend to buy any article sold or offered for sale at any public auction.

SEC. 6-3.43 AUCTIONS. JEWELRY. It shall be unlawful for any person to conduct a jewelry auction in the City of Hayward, except a jewelry auction of a stock on hand of any person who shall, for the period of one year next preceding such sale, have been continuously in business in the City of Hayward as a retail or wholesale merchant of such merchandise, and is bona fide disposing of his stock for the purpose of retiring from business.

SEC. 6-3.44 AUCTIONS. RECORDS. REPORTS. Each Auctioneer must keep a record book in which he must enter all sales, the amount paid and the date of each sale, which book must be open at all times to the inspection of the Police Department of the City of Hayward and any other person interested therein. Daily reports must be filed with the Chief of Police of all sales held under the provisions of this Article pertaining to auctions, which reports shall set forth a description of the article sold, the persons to whom sold, the amount received, the lot number or pledge number, or stock number of the items so sold.

SEC. 6-3.50 JUNK DEALERS AND COLLECTORS. REGULATIONS. It shall be unlawful for any Junk Dealer or Collector to store or keep any bones, or refuse foodstuff, or any junk intermingled with food materials or particles thereof, which may attract rats, mice or like rodents or serve as food for them, or to permit such materials to accumulate on the premises of any Junk Dealer or Junk Collector, or in any junk yard or junk shop whatsoever, except such bones or other materials may be stored in a covered bin of metal, concrete, tile or other solid or imperious substance so constructed as to be entirely rat-proof.

The premises of any Junk Dealer or Junk Collector shall be entirely surrounded by a solid tight fence or wall of not more than ten (1) feet and not less than eight (8) feet in height and painted with a fire retardant paint. Any such fence shall not have more than one (1) opening upon any public street and each opening shall not be more than twelve (12) feet in width and shall be equipped with a substantial solid tight gate or door of the same height as such fence or wall and the same shall be kept securely closed at all times when such Junk Dealer or Collector is not open for business.

SEC. 6-3.55 REVOCATION AND SUSPENSION OF PERMIT. Any permit granted pursuant to the provisions of this Article may be revoked or suspended in the manner provided in Article 1 of this Chapter for any violation of the provisions hereof regulating the specified businesses.